PREVAILED	Roll Call No
FAILED	Ayes
WITHDRAWN	Noes
RULED OUT OF ORDER	

## **HOUSE MOTION**

## MR. SPEAKER:

I move that House Bill 1197 be amended to read as follows:

1	Page 1, line 8, delete "A" and insert "(a) Except as provided in
2	subsection (b), and subject to subsection (c), a".
3	Page 1, delete line 13.
4	Page 1, line 14, delete "(B)" and insert "(A)".
5	Page 1, line 15, delete "(C)" and insert "(B)".
6	Page 1, between lines 16 and 17, begin a new paragraph and insert:
7	"(b) Subsection (a) does not apply to construction that:
8	(1) is:
9	(A) an expansion of an existing confined feeding operation
10	or CAFO; or
11	(B) construction of a new confined feeding operation or
12	CAFO proposed to be located within one (1) mile of a
13	boundary referred to in subsection (a) of an entity
14	described in subsection (a)(1) or (a)(2) that located within
15	one (1) mile of a confined feeding operation or CAFO that:
16	(i) existed; or
17	(ii) was under construction;
18	on March 1, 2007; and
19	(2) is proposed by a person that has not committed a violation
20	of:
21	(A) environmental management laws; or
22	(B) a rule adopted by the board;
23	as determined by the department.
24	(c) A person that proposes construction as described in

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facility is to be located; or  (2) the county executive if the facility is to be located county that does not zone under IC 36-7-4;  for an exemption from the one (1) mile limitation under subsection (a). The person must specify in the appeal petition the reasons justify the exemption.  (d) A local zoning authority or county executive that receive appeal petition under subsection (c) shall do the following:  (1) Publish notice under IC 5-3-1 of a public hearing on appeal. The public hearing must be held not later forty-five (45) days after the date of filing of the appetition under subsection (c).  (2) Hold the public hearing, taking testimony from appellant and the public on the appeal.  (3) Conduct any inquiry or investigation that the local zo authority or county executive considers necessary be making a determination.  (e) A local zoning authority or county executive may grant appeal under subsection (c) for exemption from the one (1) limitation under subsection (a) only if the local zoning authority county executive determines that granting the appeal is consist with the public health, safety, and welfare.  (f) After a public hearing held under subsection (d), the ladication authority or county executive shall:  (1) make a written determination on the appeal petition;  (2) give notice of the determination on the appeal petition;  (2) give notice of the determination on the appeal petition;  (2) give notice of the determination on the appeal petition;  (3) Conduct that is the subject of the application."  Page 2, line 11, delete "if the limitation in section" and insert  (A) the limitation in section 1.5(a) of this chapter appears to the facility that is the subject of the application."  Page 2, delete lines 12 through 13.  Page 4, between lines 26 and 27, begin a new paragraph and in "SECTION 9. IC 13-18-10-11 IS ADDED TO THE INDIA CODE AS A NEW SECTION TO READ AS FOLLO (EFFECTIVE JULY 1, 2007): Sec. 11. If:  (1) a court action is brought against an owner or operated a confined feeding operation, including		
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a confined feeding operation, including a CAFO, by a pe	4	[EFFECTIVE JULY 1, 2007]: Sec. 11. If:
	15	(1) a court action is brought against an owner or operator of
other than a political subdivision or a state agency: and	16	a confined feeding operation, including a CAFO, by a person
· · · · · · · · · · · · · · · · · · ·	17	other than a political subdivision or a state agency; and

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1	(2) the action includes a complaint against any aspect of the
2	construction or operation of the confined feeding operation or
3	CAFO;
4	the party prevailing in the action is entitled to recover the costs of
5	the action, including reasonable attorney's fees as determined by
6	the court.
7	SECTION 10. IC 13-18-10-12 IS ADDED TO THE INDIANA
8	CODE AS A NEW SECTION TO READ AS FOLLOWS
9	[EFFECTIVE JULY 1, 2007]: Sec. 12. The department shall revoke
10	an approval or permit under which a person is allowed to construct
11	or operate a confined feeding operation, including a CAFO, at the
12	time of the third occurrence of either of the following:
13	(1) The person is convicted under IC 13-30-6.
14	(2) A civil penalty is imposed on the person under IC 13-30-4,
15	except for a civil penalty for a minor violation as described in
16	IC 13-30-4-3(a).".
17	Renumber all SECTIONS consecutively.
	(Reference is to HB 11197 as printed February 16, 2007.)

Representative Stutzman

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